K

1943.

File No. B. Munis Bom City/43

Regal Department

B BRANCH

Subject:— Governor's Bill No. II of 1943

A Bill to amend the City of Bombay Municipal Act 1888

(Amdt. to SS 68 and 471 and insertion of new SS. 190 to 191 B)

Bom II of 1943

P. 11/E.

B Munis Bom. City/43

File No.

Gen. 194 e.

Bom II of 1943

204-B

Office of the A.L.A.

A revised draft bill is sent herewith.

2. Clause 2 of the G.D. draft bill (page24 ante): This clause provides for amendment of section 63 of the City of Bombay Municipal Act, 1888, inserting in sub-section (2) of that section the provisions of the new sections 190 and 191, the powers, duties of functions of the Commissioner under which may be exercised, performed or discharged by other municipal officers empowered by the Commissioner. Sub-section (6) of the new section 191 in the G.D. draft bill which corresponds to sub-section (5) of section 190 in clause 3 of the revised draft bill provides that the Commissioner shall maintain a register showing the persons liable to pay the tax under the section. It appears desirable to provide for the functions of the Commissioner under this section being performed also by other municipal officers empowered by him. Clause 2 of the revised draft bill provides, therefore, for insertion of this sub-section also in the list of provisions referred to in sub-section (2) of section 63 of the Act.

3. Clause 1 of the G.D. draft bill, clause 3 of the revised draft bill: The provisions of the sections 190 and 191 have been revised from the drafting point of view of the lines of other similar existing provisions of the Act. It is presumed that the intention is that the existing provisions regarding collection of the tax levied on other animals contained in sections 200, 202 to 208, 210, 211 and 216, the provisions regarding appeal contained in sections 217 to 219 and the provisions of section 189 regarding inspection of places in which dogs liable to tax may be kept are to apply whether in respect of the tax on dogs also. G.D. should verify this presumption is correct.

4. A section 191-B has been inserted in the revised draft bill in order to make it clear that nothing in sections

180 to 188 and 198 shall apply in respect of the tax liviable on dogs.

5. G.D's attention is also invited to the provisions of section 479. It is presumed that this section is also to apply to licenses granted in respect of dogs under the new provisions of section 191.

6. The bill as revised maybe shown to the Municipal Commissioner.

7. Under executive instructions, the bill requires the previous approval of the Governor General before enactment. The subject-matter of the bill falls under entries 13,37 and 47 of the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935. As the provisions of the bill do not relate to any entry in the Concurrent Legislative List the bill does not require to be reserved for consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

Id/- P.N.N.
21/11

Remembrancer of Legal Affairs.

U.R.to G.D.No.10073 dated the 24th November 1941.

RHB.
17.7.

Office of the A.G.A.

The G.L. proposes to substitute "Fourth" for "Third" in clause 1 of the Bill. But this will not be in order. A "Fourth" amending Act to the City Municipal Act was passed on 10th October 1942, namely, Ord. Act XVI of 1942. But as the Bill will be enacted during this year and will be the first Act amending the City Municipal Act, the word "Third" will have to be deleted from clause 1 and ~~it~~ "1942" changed to "1943".

With regard to the amendment in the Statement suggested by the Municipal Commissioner at p. 113 onto the words "at present the action taken by the Municipality by arrangement with the Commissioner of Police is confined to stray dogs only and cannot extend to dogs on private premises" may be substituted for the words "the present powers of the Municipality apply to stray dogs only and not to dogs on private premises".

Sd/- P.N...
25/11

Remembrancer of Legal Affairs.

U.H.to G.D.No.600, dated the 25th January 1943.

RHB.
17.7.

No.1404

Legal Department.
Bombay Castle, 23rd February 1943.

From

P.N.Moos, Esquire, Barrister-at-Law, I.C.S.
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject: A Bill to amend the City of Bombay Municipal Act, 1888.

Sir,

With reference to your memorandum No.201 (60) dated the 20th May 1942, addressed to the General Department on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor a copy of the Bill to amend the City of Bombay Municipal Act, 1888 prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill effects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a); (b), (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject matter of the Bill falls under entries 13, 37 and 47 of the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935. None of the provisions of the Bill relates to any matter enumerated in the Concurrent Legislative List. It is not, therefore necessary to reserve the Bill for consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

5. I am also forward herewith one spare copy of the Bill.

Your obedient servant,

Sd/- P.N.M.

Secretary to the Government of Bombay, Legal Department.

Through

The Secretary to the Government of Bombay, General Department.

RER.
17.7.

201(60)
Office of the Governor's Secretary,
Government House,
Bombay, 3rd March 1943.

From

J. B. Irwin, Esquire, CIE. DSO. MC. ICS.
Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department, Bombay.

Subject: The City of Bombay Municipal (Amendment) Bill, 1943.

Sir,

With reference to your letter No. 1404, dated 23rd February 1943, I am directed to return herewith the copy of the Bill to amend the City of Bombay Municipal Act, 1888 prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

Your obedient servant.

Sd/-

Secretary to the Governor of Bombay.

RHB.
17.7.

Acts
Publication of the City of Bombay Municipal (Amendment, Act. 1943.

GOVERNMENT OF BOMBAY,
Legal Department.
Resolution No. 1627
Bombay Castle, 3rd March 1943.

Letter to the Secretary to the Governor, No.140
dated the 23rd February 1943.

Letter from the Secretary to the Governor, No. 201(60) dated the 3rd March 1943.

"With reference to your letter No.1401, dated 23rd February 1943, I am directed to return herewith the copy of the Bill to amend the City of Bombay Municipal Ac 1888, [redacted] prepared by His Excellency the Governor under paragraph (2 of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the afore said paragraph, High Excellency the Governor is pleased t declare that he assents to the Bill in the name of His Majesty."

RESOLUTION. The law should be published as Bombay Act. No. II of 1943, in the Bombay Government Gazette dated the 5th March 1943.

2. The Act should be translated into Marathi, Gujarati and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forward to the General Department.

By order of the Governor of Bombay,

sd/- S.L.Chaudhari.

For { P.H. MOOS,
{ Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department).
The General Department. -) with
*The Oriental Translator to Government.) a
The Secretary to the Bombay Legislative Council) copy
The Secretary to the Bombay Legislative Assembly.) of the Act.

RHB.
17.7.

* With five extra copies.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

FRIDAY, 5TH MARCH 1943.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS

	PAGES
BOMBAY ACT No. II OF 1943—An Act to amend the City of Bombay Municipal Act, 1888	74-78

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 2nd March 1943 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department

BOMBAY ACT No. II OF 1943.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 5th March 1943.)

An Act to amend the City of Bombay Municipal Act, 1888.

Bom. III of 1888.

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, for the purposes hereinafter appearing;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title.

1. This Act may be called the City of Bombay Municipal (Amendment) Act, 1943.

Amendment of section 68 of Bom. III of 1888.

2. In sub-section (*2*) of section 68 of the City of Bombay Municipal Act, 1888 (hereinafter called the said Act), after the entry " Section 189 " the following entries shall be inserted, namely :— Bom. III of 1888.

" Section 191A, sub-sections (*3*) and (*5*).

Section 191B, sub-sections (*1*), (*3*), (*4*) and (*5*)."

Insertion of new sections 191A, 191B, 191C, and 191D in Bom. III of 1888.

3. After section 191 of the said Act, the following heading and sections shall be inserted, namely :—

" *Dogs.*

Tax on dogs.

191A. (*1*) A tax not exceeding five rupees per annum shall be levied on every dog kept within the city and not under the age of six months.

(*2*) Every person who owns or is in charge of any dog on which a tax is leviable under sub-section (*1*) shall be liable for such tax.

(*3*) (*a*) Every person who owns or is in charge of any dog shall, before the first day of May in each official year, forward to the Commissioner a return signed by him containing information regarding the age of such dog and his name and address.

(*b*) Every person who after the first day of May in any official year becomes the owner or takes charge of any dog shall, within one week from the date on which he becomes the owner or takes charge of the dog, forward to the Commissioner a like return, signed by him.

(*4*) The tax shall be payable for every official year in advance on the first day of May :

Provided that—

(*i*) in respect of a dog which attains the age of six months after the first day of May, the tax shall be payable immediately after the expiry of one week from the day on which the dog attains such age, and

(*ii*) in cases in which a person becomes the owner or takes charge of any dog, not under the age of six months, after the first day of May, the tax shall be payable immediately after the expiry of one week from the day on which he becomes the owner or takes charge of such dog :

Provided further that the tax shall not be payable more than once for the same official year in respect of any dog.

(*5*) The Commissioner shall maintain a register showing the persons liable to pay the tax under this section.

License and number-ticket for and disposal of dogs.

191B. (*1*) When the owner or person in charge of any dog has paid the tax leviable on such dog, the Commissioner shall—

(*a*) grant him a license to keep such dog during the official year for which the tax has been paid ; and

(*b*) provide him with a number-ticket, the number of which shall be specified in the license.

(*2*) The owner or person in charge of any dog so licensed shall at all times cause the said number-ticket to be kept attached to the collar or otherwise suspended from the neck of the dog.

(*3*) Any dog which has no number-ticket so attached or suspended—

(*i*) shall be presumed to be a dog in respect of which no license has been granted, and

(*ii*) may be seized by the police or by any officer duly authorized by the Commissioner in this behalf, and detained until the tax due, if any, has been paid.

(*4*) If any person, within three days from the date of such seizure, satisfies the Commissioner that he is the owner or person in charge of such dog, the Commissioner shall order it to be delivered to such person on payment of the tax, if any due, and the costs incurred by the Commissioner by reason of its detention.

(5) If, within the said three days, no person satisfies the Commissioner that he is the owner or person in charge of the dog and pays the said tax and costs, the Commissioner may cause the dog either—

(a) to be destroyed, or

(b) to be sold and the proceeds of the sale, after deducting therefrom the said tax and costs (together with the costs of sale) to be paid to any person who within six months from the date of such sale, establishes to the satisfaction of the Commissioner his claim to such proceeds.

Protection of persons acting in good faith.

191C. No suit, prosecution or other legal proceeding shall be instituted against any person in respect of any act done in good faith in pursuance of the provisions of sub-sections (3), (4) and (5) of section 191B.

Certain sections not to apply.

191D. Nothing contained in sections 180 to 182, 185 to 188, 190, 191, 198 and the second sentence of sub-section (2) of section 200 shall apply in respect of the tax leviable under section 191A."

Amendment of section 471 of Bom. III of 1888.

4. In the table appended to section 471 of the said Act, after the entry relating to section 188, the following entry shall be inserted, namely :—

"

Section, sub-section or clause.	Subject.	Fine which may be imposed.
1	2	3
Section 191A, sub-section (3).	Return to be forwarded by an owner or person in charge of a dog.	Fifty rupees.

STATEMENT.

In spite of the adoption of stringent measures by the Bombay Municipality to reduce the number of stray and ownerless dogs, the number of cases of dog bites has shown a tendency to increase. The statistics of such cases treated during the last four years at the Haffkine Institute, Bombay, reveal that the average number of cases per year is about 2,000. As this is an increasing danger to public health and as at present the action taken by the Municipality by arrangement with the Commissioner of Police is confined to stray dogs only and cannot extend to dogs on private premises, the Municipal Corporation considers that it is essential that it should

have the power to control the keeping and rearing of dogs on private premises. The proposed amendment provides for the grant of a license and the levy of a license fee in respect of every dog kept in the City. These provisions will enable the Corporation to exercise better control over stray dogs. Similar provisions exist in Calcutta, Madras and Karachi and in the Bombay Municipal Boroughs Act, 1925, and the Bombay District Municipal Act, 1901.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.